

the field of social work and child welfare. Each level of funding assistance shall correspond to the staffing requirements established by the Secretary pursuant to this section.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) projected service population of the program;

(B) projected service area of the program;

(C) projected number of cases per month; and

(D) special circumstances warranting additional program resources, such as high incidence of child sexual abuse, high incidence of violent crimes against women, or the existence of a significant victim population within the community.

(4) The formula established pursuant to this subsection shall provide funding necessary to support—

(A) one child protective services or family violence caseworker, including fringe benefits and support costs, for each tribe; and

(B) an additional child protective services and family violence caseworker, including fringe benefits and support costs, for each level of assistance for which an Indian tribe qualifies.

(5) In any fiscal year that appropriations are not sufficient to fully fund Indian Child Protection and Family Violence Prevention programs at each level of assistance under the formula required to be established in this subsection, available funds for each level of assistance shall be evenly divided among the tribes qualifying for that level of assistance.

(g) Maintenance of effort

Services provided under contracts made under this section shall supplement, not supplant, services from any other funds available for the same general purposes, including, but not limited to—

(1) treatment, including, but not limited to—

(A) individual counseling,

(B) group counseling, and

(C) family counseling;

(2) social services and case management;

(3) training available to Indian tribes, tribal agencies, and Indian organizations regarding the identification, investigation, prevention, and treatment of family violence, child abuse, and child neglect; and

(4) law enforcement services, including investigations and prosecutions.

(h) Contract evaluation and annual report

Each recipient of funds awarded pursuant to subsection (a) of this section shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the award is made, and

(B) ensure that funds are expended for the purposes for which the award was made; and

(2) submit to the Secretary at the end of each fiscal year an annual report which shall include such information as the Secretary may require.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this section \$30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997.

(Pub. L. 101-630, title IV, §411, Nov. 28, 1990, 104 Stat. 4553; Pub. L. 104-16, §1, June 21, 1995, 109 Stat. 190.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1995—Subsec. (i). Pub. L. 104-16 substituted “1995, 1996, and 1997” for “and 1995”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3206 of this title.

§ 3211. Report to Congress

On or before March 1, 1991, and March 1 of each calendar year thereafter, the Secretary shall submit to the Congress a report involving the administration of this chapter during the calendar year preceding the calendar year in which such report is submitted.

(Pub. L. 101-630, title IV, §412, Nov. 28, 1990, 104 Stat. 4556.)

CHAPTER 35—INDIAN HIGHER EDUCATION PROGRAMS

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SUBCHAPTER I—HIGHER EDUCATION TRIBAL GRANT AUTHORIZATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3322 of this title.

§ 3301. Short title

This subchapter may be cited as the “Higher Education Tribal Grant Authorization Act”.

(Pub. L. 102-325, title XIII, §1311, July 23, 1992, 106 Stat. 798.)

§ 3302. Findings

The Congress finds that—

(1) there are increasing numbers of Indian students qualifying for postsecondary education, and there are increasing numbers desiring to go to postsecondary institutions;

(2) the needs of these students far outpace the resources available currently;

(3) Indian tribes have shown an increasing interest in administering programs serving these individuals and making decisions on these programs reflecting their determinations of the tribal and human needs;

(4) the contracting process under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] has provided a mechanism for the majority of the tribes to assume control over this program from the Bureau of Indian Affairs;

(5) however, inherent limitations in the contracting philosophy and mechanism, coupled with cumbersome administrative procedures developed by the Bureau of Indian Affairs have effectively limited the efficiency and effectiveness of these programs;

(6) the provision of these services in the most effective and efficient form possible is necessary for tribes, the country, and the individuals to be served; and

(7) these services are part of the Federal Government’s continuing trust responsibility to provide education services to American Indian and Alaska Natives.

(Pub. L. 102-325, title XIII, §1312, July 23, 1992, 106 Stat. 798.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in par. (4), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 3303. Program authority

(a) In general

The Secretary shall, from the amounts appropriated for the purpose of supporting higher education grants for Indian students under the authority of section 13 of this title, make grants to Indian tribes in accordance with the requirements of this subchapter to permit those tribes to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education.

(b) Limitation on Secretary’s authority

The Secretary shall not place any restrictions on the use of funds provided to an Indian tribe

under this subchapter that is not expressly authorized by this subchapter.

(c) Effect on Federal responsibilities

The provisions of this subchapter shall not affect any trust responsibilities of the Federal Government.

(d) No termination for administrative convenience

Grants provided under this subchapter may not be terminated, modified, suspended, or reduced only for the convenience of the administering agency.

(Pub. L. 102-325, title XIII, §1313, July 23, 1992, 106 Stat. 798.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3304 of this title.

§ 3304. Qualification for grants to tribes

(a) Contracting tribes

Any Indian tribe that obtains funds for educational purposes similar to those authorized in this subchapter pursuant to contract under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] may qualify for a grant under this subchapter by submitting to the Secretary a notice of intent to administer a student assistance program under section 3303 of this title. Such notice shall be effective for the fiscal year following the fiscal year in which it is submitted, except that if such notice is submitted during the last 90 days of a fiscal year such notice shall be effective the second fiscal year following the fiscal year in which it is submitted, unless the Secretary waives this limitation.

(b) Noncontracting tribes

Any Indian tribe that is not eligible to qualify for a grant under this subchapter by filing a notice under subsection (a) of this section may qualify for such a grant by filing an application for such a grant. Such application shall be submitted under guidelines for programs under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.], as in effect on January 1, 1991, and shall be reviewed under the standards, practices, and procedures applicable to applications to contract under such Act as in effect on the date the application is received, except that—

(1) if the tribe is not notified that its application has been disapproved within 180 days after it is filed with the Secretary, the application shall be deemed to be approved;

(2) if the application is disapproved, the Secretary shall provide technical assistance to the tribe for purposes of correcting deficiencies in the application;

(3) the Secretary shall designate an office or official to receive such applications, and shall toll the 180-day period described in paragraph (1) from the date of receipt by such office or official; and

(4) applications shall be approved for the fiscal year following the fiscal year in which submitted, unless the Secretary waives the limitation of this paragraph.

(c) Termination of grants

(1) Continuing eligibility presumed

An Indian tribe which has qualified under subsection (a) or (b) of this section for a grant under this subchapter for any fiscal year shall continue to be eligible for such a grant for each succeeding fiscal year unless the Secretary revokes such eligibility for a cause described in paragraph (2).

(2) Causes for loss of eligibility

The Secretary may revoke the eligibility of an Indian tribe for a grant under this subchapter if such tribe—

(A) fails to submit to the Bureau an annual financial statement that reports revenues and expenditures determined by use of an accounting system, established by the tribe, that complies with generally accepted accounting principles;

(B) fails to submit to the Bureau an annual program description, stating the number of students served, and containing such information concerning such students, their educational programs and progress, and the financial assistance distributed to such students as the Secretary may require by regulation;

(C) fails to submit to the Secretary a biennial financial audit conducted in accordance with chapter 75 of title 31; or

(D) fails, in an evaluation of its financial assistance program conducted by an impartial third party entity, to comply with standards under this subchapter relating to (i) eligible students, programs, or institutions of higher education, (ii) satisfactory progress, or (iii) allowable administrative costs; as determined under contracts applicable to programs to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education administered by Indian tribes under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] and in effect on January 20, 1991.

(3) Procedures for revocation of eligibility

The Secretary shall not revoke the eligibility of an Indian tribe for a grant under this subchapter except—

(A) after notice in writing to the tribe of the cause and opportunity to the tribe to correct;

(B) providing technical assistance to the tribe in making such corrections; and

(C) after hearing and appeals conducted under the same rules and regulations that apply to similar termination actions under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.].

(Pub. L. 102-325, title XIII, §1314, July 23, 1992, 106 Stat. 799.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in text, is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3305 of this title.

§ 3305. Allocation of grant funds**(a) Allocation of funds****(1) In general**

The Secretary shall continue to determine the amount of program funds to be received by each grantee under this subchapter by the same method used for determining such distribution in fiscal year 1991 for tribally-administered and Bureau-administered programs of grants to individual Indians to defray post-secondary expenses.

(2) Administrative costs

In addition to the amount determined under paragraph (1), a grantee which has exercised the option given in section 3304(a) of this title to administer the program under a grant shall receive an amount for administrative costs determined pursuant to the method used by the grantee during the preceding contract period. All other grantees shall receive an amount for administrative costs determined pursuant to the regulations governing such determinations under the Indian Self Determination and Education Assistance Act [25 U.S.C. 450 et seq.], as in effect at the time of application to grants being made.

(3) Single grant; separate accounts

Each grantee shall receive only one grant during any fiscal year, which shall include both of the amounts under paragraphs (1) and (2). Each grantee shall maintain this grant in a separate account.

(b) Use of funds

Funds provided by grants under this subchapter shall be used—

(1) to make grants to individual Indian students to meet, on the basis of need, any educational expense of attendance in a post-secondary education program (as determined under the contracts applying to the post-secondary education program administered by tribes under the Indian Self Determination and Education Assistance Act (Public Law 93-638) [25 U.S.C. 450 et seq.]), to the extent that such expense is not met from other sources or cannot be defrayed through the action of any State, Federal, or municipal Act, except that nothing in this subsection shall be interpreted as requiring any priority in consideration of resources; and

(2) costs of administering the program under this subchapter, except that no more may be spent on administration of such program than is generated by the method for administrative cost computation specified in subsection (a)(2) of this section.

(Pub. L. 102-325, title XIII, § 1315, July 23, 1992, 106 Stat. 800.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsecs. (a)(2) and (b)(1), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title. For complete classification of

this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 3306. Limitations on use of funds**(a) Use for religious purposes**

None of the funds made available under this subchapter may be used for study at any school or department of divinity or for any religious worship or sectarian activity.

(b) Interest on funds

No interest or other income on any funds made available under this subchapter shall be used for any purpose other than those for which such funds may be used.

(c) Payments**(1) In general**

Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this subchapter in two payments—

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a contractor that has elected to have the provisions of this subchapter apply, and

(B) the second payment consisting of the remainder to which the grantee or contractor is entitled for the fiscal year to be made by no later than January 1 of the fiscal year.

(2) New grantees

For any tribe for which no payment was made under this subchapter in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.

(d) Investment of funds**(1) Treatment as tribal property**

Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this subchapter after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this subchapter shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(2) Investment requirements

Funds provided under this subchapter may be—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

(e) Recoveries

For the purposes of under recovery and over recovery determinations by any Federal agency

for any other funds, from whatever source derived, funds received under this subchapter shall not be taken into consideration.

(Pub. L. 102-325, title XIII, §1316, July 23, 1992, 106 Stat. 801.)

§ 3307. Administrative provisions

(a) Biennial report

The Secretary shall submit a biennial report to the Congress on the programs established under this subchapter. Such report shall include—

- (1) a description of significant administrative actions taken by the Secretary under this subchapter;
- (2) the number of grants made under the authority of this subchapter;
- (3) the number of applications denied for such grants and the reasons therefor;
- (4) the remedial actions taken to enable applicants to be approved;
- (5) the number of students served, by tribe;
- (6) statistics on the academic pursuits of the students provided assistance under this subchapter and the average amount of assistance provided; and
- (7) such additional information as the Secretary considers significant.

(b) Role of Director

Applications for grants under this subchapter, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

(c) Application of Indian Self-Determination and Education Assistance Act

All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c et seq.) [25 U.S.C. 450c, 450d, 450e, 450j, 450m, 450m-1], except those provisions pertaining to indirect costs and length of contract, shall apply to grants provided under this subchapter.

(d) Regulations

The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this subchapter. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this subchapter, the Secretary shall not issue regulations. Regulations issued pursuant to this subchapter shall not have the standing of a Federal statute for the purposes of judicial review.

(e) Retrocession

Whenever an Indian tribe requests retrocession of any program for which assistance is provided under this subchapter, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days after the date on which the tribe requests the retrocession, or such later date as may be mutually agreed upon by the Secretary and the tribe. If such a program is retroceded, the Secretary

shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this subchapter prior to the retrocession. The tribal governing body requesting the retrocession shall specify whether the retrocession shall be to a contract administered by the tribe, or a tribal entity, under the authority of the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or to a Bureau administered program.

(f) Definitions

For the purposes of this subchapter:

(1) The term “Secretary” means the Secretary of the Interior.

(2) The terms “Indian” and “Indian tribe” have the same meaning given those terms in sections¹ 4(d) and (e), respectively, of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450b(d), (e)].

(Pub. L. 102-325, title XIII, §1317, July 23, 1992, 106 Stat. 802.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (e), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

SUBCHAPTER II—CRITICAL NEEDS FOR TRIBAL DEVELOPMENT

§ 3321. Short title

This subchapter may be cited as the “Critical Needs for Tribal Development Act”.

(Pub. L. 102-325, title XIII, §1321, July 23, 1992, 106 Stat. 803.)

§ 3322. Definitions

As used in this subchapter:

(1) The term “federally funded higher education assistance” means any grant assistance provided to an Indian student from funds made available for such purpose by contract or grant to an Indian tribe from amounts appropriated under the authority of section 13 of this title.

(2) The term “eligible Indian tribe or tribal organization” means any Indian tribe or tribal organization that qualifies to administer federally funded higher education assistance under a contract pursuant to the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] or under a grant pursuant to subchapter I of this chapter.

(3) The term “Indian” has the meaning given such term in section 4(d) of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450b(d)].

(Pub. L. 102-325, title XIII, §1322, July 23, 1992, 106 Stat. 803.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in par. (2), is Pub. L. 93-638, Jan.

¹ So in original. Probably should be “section”.

4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 3323. Service conditions permitted

(a) In general

An eligible Indian tribe or tribal organization may, in accordance with the requirements of this subchapter, require any applicant for federally funded higher education assistance, as a condition of receipt of such assistance, to enter into a critical area service agreement in accordance with section 3324 of this title.

(b) Critical area designation

Any eligible Indian tribe or tribal organization that intends to require critical area service agreements shall, by a formal action of the tribal council or its delegate, designate particular occupational areas as critical areas for the economic or human development needs of the tribe or its members. The tribe or organization shall notify the Secretary of the Interior in writing of such designated critical areas. Such designations shall be applicable to federally funded higher education assistance for any fiscal year following the fiscal year in which the designation is made until such designation is withdrawn by the tribe or organization by formal action. The tribe or organization shall notify the Secretary of the Interior in writing of any designations that are withdrawn.

(Pub. L. 102-325, title XIII, §1323, July 23, 1992, 106 Stat. 803.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3324 of this title.

§ 3324. Critical area service agreements

(a) Terms of agreements

A critical area service agreement shall be an agreement between an Indian student who receives or who shall receive federally funded higher education assistance and an Indian tribe or tribal organization providing such assistance in which the student agrees—

(1) to undertake a course of study at an eligible institution (as that term is defined in section 1085(a) of title 20) in an area of critical need, as determined under section 3323 of this title, and to pursue that course of study to its completion; and

(2)(A) to perform, for each academic year for which the student receives federally funded higher education assistance under a critical area service agreement, one calendar year of service to the tribe or organization in an occupation that is in a critical area designated by the tribe pursuant to section 3323(b)¹ of this title, commencing not later than 6 months after the student ceases to carry at an institution of higher education at least one-half the normal full-time academic workload as determined by the institution; or

(B) to repay such assistance to the Secretary, together with interest thereon at a

rate prescribed by the Secretary by regulation, in monthly or quarterly installments over not more than 5 years.

(b) Service limitations and conditions

The tribe or tribal organization shall agree that a student performing services under a critical area service agreement—

(1) shall be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work;

(2) may be treated as providing services to the tribe or organization if the student provides services for members of the tribe or organization that are approved by the tribe or organization and agreed to by the student even though such services are performed while the student is employed by a Federal, State, or local agency or instrumentality or by a nonprofit or for-profit private institution or organization; and

(3) may obtain the benefits of a waiver or suspension in accordance with the requirements of subsection (c) of this section.

(c) Waiver and suspension of service agreement

(1) Waiver

An Indian tribe or tribal organization may, by formal action, waive the service agreement of an Indian student for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe or organization shall notify the Secretary in writing of any waiver granted under this subsection.

(2) Suspension

The obligation of a student to perform services under a critical area service agreement—

(A) shall be suspended for not more than 18 months if, at the request of the student, the tribe or organization determines that there are no employment opportunities available in any critical service area; and

(B) shall be suspended if the student ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available in any critical service area, the student's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe or organization annually, but may be continued indefinitely.

(d) Pro rata reduction for partial services

The Secretary shall, by regulation, provide for the pro rata reduction of repayment obligations under subsection (a)(2) of this section in the case of any student who partially completes the service obligation of that student under subsection (a)(2)(A) of this section.

(e) Certification of service

An Indian tribe or tribal organization receiving services under a critical area service agreement—

(1) shall establish procedures for monitoring and evaluating the provisions of this sub-

¹ See References in Text note below.

chapter, and provide a copy of such procedures to the Secretary and to each individual providing services under a critical area service agreement;

(2) shall annually certify to the Secretary the identities of the individuals performing service under such agreements; and

(3) shall annually certify to the Secretary the amount of service performed, and the amount remaining to be performed, by each such individual under such agreements.

(Pub. L. 102-325, title XIII, §1324, July 23, 1992, 106 Stat. 803.)

REFERENCES IN TEXT

Section 3323(b) of this title, referred to in subsec. (a)(2)(A), was in the original a reference to “section 1322(b)”, meaning section 1322(b) of Pub. L. 102-325, which has been translated as reading section 1323(b) of Pub. L. 102-325 to reflect the probable intent of Congress because section 1322 does not have a subsec. (b) and section 1323(b) relates to designation of critical areas by tribes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3323 of this title.

§ 3325. General provisions

(a) Application of existing procedures

Except as provided in subsection (b) of this section, the requirements relating to student eligibility, needs analysis, and determination of eligibility for the program to be attended regularly incorporated by reference into contracts under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] for tribal operation of higher education grant programs prior to January 1, 1991, shall apply.

(b) Additional, excess, and incremental costs

The tribe or tribal organization may establish in writing, subject to the review of the Secretary, procedures for determining additional, excess, or inducement costs to be associated with grants for critical area service agreements.

(Pub. L. 102-325, title XIII, §1325, July 23, 1992, 106 Stat. 805.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

SUBCHAPTER III—TRIBAL DEVELOPMENT STUDENT ASSISTANCE REVOLVING LOAN PROGRAM

§ 3331. Short title

This subchapter may be cited as the “Tribal Development Student Assistance Act”.

(Pub. L. 102-325, title XIII, §1341, July 23, 1992, 106 Stat. 809.)

§ 3332. Findings; purposes

(a) Findings

The Congress finds that—

(1) a substantial number of Indian students have partially completed their degrees in postsecondary education, but have been unable, for a number of reasons, to complete the degrees;

(2) in at least some measure these students have been supported by tribal funds or grants of Federal monies administered by the Bureau of Indian Affairs or tribes;

(3) the inability of the students to complete these degrees has led to a hardship for the students and a loss of a potential pool of talent to the tribes or tribal organizations which originally financed, at least in part, these efforts;

(4) this loss has crippled tribal efforts in the areas of economic and social development;

(5) this failure to complete the postsecondary schooling has led to economic loss to the tribes and the Federal Government which could be remedied by completion of the courses of study; and

(6) a program to identify students with a level of postsecondary completion short of the fulfillment of graduation requirements and to encourage them to complete these requirements, including provision of resources, will benefit the students, the tribes, and the Federal Government.

(b) Purposes

The purposes of this subchapter are—

(1) to establish a revolving loan program to be administered by a tribe or tribal organization for the purposes of increasing the number of college graduates available to work in tribal businesses, tribal government, and tribal services such as schools and hospitals;

(2) to conduct research to assess the situational and educational barriers to participation in postsecondary education; and

(3) to encourage development, through grants, of a model which provides, in addition to loans, transitional and follow-up services needed to encourage persistence in postsecondary education.

(Pub. L. 102-325, title XIII, §1342, July 23, 1992, 106 Stat. 809.)

§ 3333. Revolving fund

(a) Receipt, investment, and accounting

(1) Tribes and tribal organizations

Funds received under a grant under this subchapter or recovered under the provisions of section 3336(a)(2)(B) of this title shall be identified and accounted for separately from any other tribal or Federal funds received from the Federal Government. All funds in this account shall be used for the purposes of this subchapter.

(2) Financial procedures

The Secretary of the Interior is responsible for establishing, by regulations, such requirements for receipt, investment and accounting of funds under subsection (b) of this section as shall safeguard and¹ financial interests of the Federal Government.

(b) Investment

Funds provided under this subchapter or recovered by the tribe or tribal organization under

¹ So in original. Probably should be “the”.

the provisions of section 3336(a)(2)(B) of this title shall be—

- (1) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or
- (2) deposited only in accounts that are insured by an agency or instrumentality of the United States.

(c) Treatment of income

Notwithstanding any other provision of law, any interest or investment income that accrues on any funds covered under this provision after such funds have been distributed to a tribe or tribal organization and before such funds are distributed for the purposes of making loans under this subchapter shall be the property of the tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(Pub. L. 102-325, title XIII, §1343, July 23, 1992, 106 Stat. 809.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3336 of this title.

§ 3334. Eligible recipients

(a) Tribes and tribal organizations

The Secretary of the Interior (hereafter in this subchapter referred to as the “Secretary”) shall make grants, in accordance with the requirements of this subchapter, to—

- (1) tribes or multitribal organizations not serviced by current federally funded postsecondary institutions authorized for economic development grants; and
- (2) tribes or multitribal organizations which lack sufficient numbers of professionally trained tribal members to support established or ongoing economic development initiatives.

(b) Students

Any tribe or tribal organization that receives funds under subsection (a) of this section shall make such funds available by loan, under terms and conditions consistent with section 3335 of this title, to Indian students who have successfully completed 30 hours of postsecondary education and who are eligible for readmission to a postsecondary institution.

(Pub. L. 102-325, title XIII, §1344, July 23, 1992, 106 Stat. 810.)

§ 3335. Terms of loans

(a) In general

A loan under this subchapter to an Indian student shall—

- (1) be subject to repayment over a period of not more than 5 years;
- (2) not bear interest;
- (3) be subject to forgiveness for services to the tribe in accordance with section 3336 of this title; and
- (4) contain such additional terms and conditions as the initial loan agreement between the tribe or tribal organization and student may prescribe in writing.

(b) Cost of attendance

Calculation of the cost of attendance for the student must include all costs as determined by the tribe for the purposes of fulfilling the policy of this subchapter.

(c) Additional requirements

Any student seeking a loan under this subchapter shall apply for and accept the maximum financial aid available from other sources. However, for purposes of determining eligibility, loans provided under this program may not be considered in needs analysis under any other Federal law, and may not penalize students in determining eligibility for other funds.

(Pub. L. 102-325, title XIII, §1345, July 23, 1992, 106 Stat. 810.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3334 of this title.

§ 3336. Service fulfillment and conditions; repayments; waivers

(a) Service agreement required

(1) In general

Prior to receipt of a loan under this subchapter, the tribe or tribal organization and the eligible recipient shall enter into a written agreement, subject to the conditions of this section, which commits the recipient—

(A) to perform, for each academic year for which the student receives assistance under this subchapter one calendar year of service to the tribe or organization in an occupation related to the course of study pursued and an economic or social development plan developed by the tribe or tribal organization, commencing not later than 6 months after the student ceases to carry at an institution of higher education at least one-half the normal full-time academic workload as determined by the institution; or

(B) to repay to the tribe or tribal organization the full amount of the loan, in monthly or quarterly installments over not more than 5 years.

(2) Report requirement

Funds recovered pursuant to paragraph (1)(B) shall be reported annually to the Secretary and invested in the account established under section 3333 of this title.

(b) Service limitations and conditions

The tribe or tribal organization shall agree that a student performing services under this subchapter—

(1) shall be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work;

(2) may be treated as providing services to the tribe or organization if the student provides services for members of the tribe or organization that are approved by the tribe or organization and agreed to by the student even though such services are performed while the student is employed by a Federal, State, or local agency or instrumentality or by a

nonprofit or for-profit private institution or organization; and

(3) may obtain the benefits of a waiver or suspension in accordance with the requirements of subsection (c) of this section.

(c) Waiver and suspension of service agreement

(1) Waiver

An Indian tribe or tribal organization may, by formal action, waive the service agreement of an Indian student for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe or organization shall notify the Secretary in writing of any waiver granted under this subsection.

(2) Suspension

The obligation of a student to perform services under this subchapter—

(A) shall be suspended for not more than 18 months if, at the request of the student, the tribe or organization determines that there are no employment opportunities available in any applicable area; and

(B) shall be suspended if the student ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available which fulfill the requirements of this subchapter, the student's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe or organization annually, but may be continued indefinitely.

(d) Pro rata reduction for partial services

The Secretary shall, by regulation, provide for the pro rata reduction of repayment obligations under subsection (a)(2)(B) of this section in the case of any student who partially completes the service obligation of that student under subsection (a)(2)(A) of this section.

(e) Certification of service

An Indian tribe or tribal organization receiving services under this subchapter—

(1) shall establish procedures for monitoring and evaluating the provisions of this subchapter, and provide a copy of such procedures to the Secretary and to each individual providing services under a critical area service agreement;

(2) shall annually certify to the Secretary the identities of the individuals performing service under such agreements; and

(3) shall annually certify to the Secretary the amount of service performed, and the amount remaining to be performed, by each such individual under such agreements.

(Pub. L. 102-325, title XIII, §1346, July 23, 1992, 106 Stat. 811.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3333, 3335, 3337 of this title.

§ 3337. Administration

(a) Regulations

The Secretary shall establish, by regulation, an application process containing such require-

ments as the Secretary deems necessary for purposes of making grants to eligible entities under this subchapter, providing that the Secretary shall take into account in reviewing applications under this subchapter the number of students with partial completion identified by the applicant, relative to the total number of the members of tribe which would be benefited by provision of services under section 3336 of this title, and shall attempt to achieve geographic and demographic diversity in grants made under this subchapter.

(b) Grant procedures

(1) In general

Subject to the availability of funds and acceptable applications, the Secretary shall make 5 grants to tribes or tribal organizations for purposes of this subchapter, each grant to be for a period of 4 years.

(2) Administrative costs

The amount of administrative costs associated with grants under this subchapter shall be negotiated by the Secretary with the successful applicants and made a part of the grant agreement.

(c) Definitions

For the purposes of this subchapter, the terms "Indian", "Indian tribe", "Secretary", and "tribal organizations" have the same meanings given such terms in sections¹ 450b(d), (e), (i), and (l) of this title, respectively.

(Pub. L. 102-325, title XIII, §1347, July 23, 1992, 106 Stat. 812.)

§ 3338. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter, \$2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 102-325, title XIII, §1348, July 23, 1992, 106 Stat. 812.)

SUBCHAPTER IV—AMERICAN INDIAN POST-SECONDARY ECONOMIC DEVELOPMENT SCHOLARSHIP

§ 3351. American Indian Post-Secondary Economic Development Scholarship

(a) Program authorized

The Secretary of Education is authorized to make grants, in accordance with the provisions of this subchapter, to federally recognized Indian tribes which lack sufficient numbers of professionally trained tribal members to support established or ongoing economic development initiatives. Priority shall be given to tribes which are not served by federally funded post-secondary institutions. The purpose of such grants is to enable such tribes to make scholarships available to tribal members to assist such members to pursue courses of study leading to an undergraduate or postbaccalaureate degree in order to provide professionally trained tribal members to support such economic development initiatives on Indian reservations.

¹ So in original. Probably should be "section".

(b) Designation

A scholarship awarded under this subchapter shall be referred to as an “American Indian Post-Secondary Economic Development Scholarship” (hereafter referred to in this subchapter as “scholarship”).

(Pub. L. 102–325, title XIII, §1361, July 23, 1992, 106 Stat. 813.)

§ 3352. Indian scholarships**(a) Selection**

Each Indian tribe receiving a grant pursuant to this subchapter for the purpose of providing scholarships shall select tribal members eligible to receive such scholarships. In determining grant recipients the Secretary of Education shall consider—

(1) geographic distribution of grants; and

(2) a tribal economic plan which demonstrates how individual recipients shall benefit the economic conditions of the tribe.

(b) Criteria

Each Indian tribe, in consultation with the Secretary of Education, shall give preference to select, as those tribal members eligible to receive such scholarships, tribal members who have successfully completed at least 30 hours of postsecondary education and who are eligible for readmission to a postsecondary institution.

(Pub. L. 102–325, title XIII, §1362, July 23, 1992, 106 Stat. 813.)

§ 3353. Scholarship conditions**(a) Scholarship agreement**

Each tribal member receiving a scholarship under this subchapter shall enter into an agreement, satisfactory to the Secretary of Education and the tribal government awarding such scholarship, under which such member agrees—

(1) to utilize the proceeds of such scholarship to pursue a course of study which meets the requirements of the educational institution in which the student is enrolled for an undergraduate or postbaccalaureate degree;

(2) upon the acquisition of such degree, to work, one year for each year of financial assistance under this subchapter, on the Indian reservation in employment related to the course of study pursued which will support economic development initiatives on such reservation; and

(3) to maintain satisfactory academic progress, as determined in accordance with section 484(c) of the Higher Education Act of 1965 [20 U.S.C. 1091(c)], while in an undergraduate or postbaccalaureate program.

(b) Repayments

Each tribal member found by the Secretary of Education to be in noncompliance with the agreement pursuant to subsection (a)(2) of this section shall be required to repay—

(1) 100 percent of the total amount of scholarships awarded under this subchapter if such tribal member does not work pursuant to such agreement; or

(2) a pro rata portion of the total amount of scholarships awarded under this subchapter, as

determined by the Secretary of Education, if such tribal member worked pursuant to such agreement but less than the time period required thereunder.

(c) Waiver and suspension of service agreement**(1) Waiver**

A federally recognized Indian tribe may, by formal action, waive the service agreement of a tribal member for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe shall notify the Secretary in writing of any waiver granted under this subsection.

(2) Suspension

The obligation of a tribal member to perform services under this subchapter—

(A) shall be suspended for not more than 18 months if, at the request of the tribal member, the tribe determines that there are no employment opportunities available in any applicable area; and

(B) shall be suspended if the tribal member ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available which fulfill the requirements of this subchapter, the tribal member's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe annually, but may be continued indefinitely.

(d) Disclaimer

No scholarship awarded pursuant to this subchapter shall be considered in determining eligibility for student assistance under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.].

(e) Limitation

Any tribal member selected by an Indian tribe to receive a scholarship under this subchapter shall be eligible to receive a \$10,000 scholarship for each academic year of postsecondary education, except that no such member shall receive scholarship assistance under this subchapter for more than 4 years of postsecondary education (including postbaccalaureate).

(f) Cost of attendance

Calculation of the cost of attendance for the tribal member shall include all costs as determined by the tribe for the purposes of fulfilling the policy of this subchapter.

(g) Additional requirements

Any tribal member seeking a loan under this subchapter shall apply for and accept the maximum financial aid available from other sources. However, for purposes of determining eligibility, loans provided under this program may not be considered in needs analysis under any other Federal law, and may not penalize tribal members in determining eligibility for other funds.

(h) Applications for assistance

Any federally recognized Indian tribe desiring a grant under this subchapter shall submit an

application to the Secretary of Education at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

- (1) describe the shortages on the reservation of such Indian tribe of professionally trained tribal members necessary to support economic development initiatives on such reservation;
- (2) provide assurances that the Indian tribe will assist in employment placement on the reservation of tribal members receiving scholarship assistance under this subchapter; and
- (3) provide assurances that any tribal member performing work pursuant to this subchapter will be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work.

(Pub. L. 102-325, title XIII, § 1363, July 23, 1992, 106 Stat. 813.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (d), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education, and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

§ 3354. Report

Each federally recognized Indian tribe receiving a grant pursuant to this subchapter shall annually report to the Secretary concerning the administration of such grant, including the identities of any individual receiving a scholarship pursuant to this subchapter, and of any individual performing service pursuant to his or her commitment under this subchapter.

(Pub. L. 102-325, title XIII, § 1364, July 23, 1992, 106 Stat. 815.)

§ 3355. Authorization of appropriations

For the purpose of carrying out the provisions of this subchapter, there are authorized to be appropriated \$2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 102-325, title XIII, § 1365, July 23, 1992, 106 Stat. 815.)

SUBCHAPTER V—AMERICAN INDIAN TEACHER TRAINING

§ 3371. American Indian teacher training

(a) Institutional support

(1) In general

The Secretary of Education is authorized to award grants to tribally controlled postsecondary, vocational and technical institutions for the purposes of—

- (A) developing teacher training programs;
- (B) building articulation agreements between such institutions and other institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965 [20 U.S.C. 1141(a)]; and

(C) basic strengthening of tribally controlled community colleges, as defined in section 1801(a)(4) of this title.

(2) Use of grants

Grants awarded under this subsection shall be for the purpose of providing upper division course work, transfer programs, articulation agreements (similar to those under part D¹ of title I of the Higher Education Act of 1965) with other accredited institutions, telecommunications programs or other mechanisms which directly support the training of American Indian teachers.

(b) Student support grants

(1) In general

The Secretary of Education is authorized to award grants to institutions that have developed teacher training programs under subsection (a) of this section for the purpose of providing financial and programmatic support to American Indian students seeking to participate in such institutions' teacher training programs.

(2) Use of grants

Institutions receiving grants under this section shall require recipients of grants under this subsection to serve as teachers in an Indian community for 1 year for each year of scholarship support received.

(3) Eligibility

Students eligible to receive support grants shall include those who have completed at least 30 hours of postsecondary education and who intend to pursue a 4-year degree.

(4) Work requirement

Students who fail to satisfy the requirements of paragraph (2) shall be required to repay a pro rata portion of the total amount of scholarships awarded under this subchapter if the student worked for less than the required time period described in such paragraph.

(c) Scholarships

(1) Authority

The Secretary of Education is authorized to provide scholarship assistance to American Indian students who seek to become teachers and who—

- (A) agree to serve as teachers in an Indian community for 1 year for each year of scholarship support received, and
- (B) have completed at least 30 hours of postsecondary education.

(2) Work requirement

Students who fail to satisfy the requirements of paragraph (1) shall be required to repay a pro rata portion of the total amount of scholarships awarded under this subchapter if the student worked for less than the required time period described in paragraph (1)(B).

(d) "Indian" defined

For purposes of this subchapter, the term "Indian" has the same meaning given such term in section 450b(d) of this title.

¹ See References in Text note below.

(e) Authorization of appropriations

There are authorized to be appropriated \$5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subchapter.

(Pub. L. 102-325, title XIII, §1371, July 23, 1992, 106 Stat. 815.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(2), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Part D of title I of the Act was classified generally to part D (§1018 et seq.) of subchapter I of chapter 28 of Title 20, Education, and was omitted in the general revision of subchapter I by Pub. L. 102-325, title I, §101, July 23, 1992, 106 Stat. 459. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

CHAPTER 36—INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES

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§ 3401. Statement of purpose

The purposes of this chapter are to demonstrate how Indian tribal governments can integrate the employment, training and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities and serve tribally-determined goals consistent with the policy of self-determination.

(Pub. L. 102-477, §2, Oct. 23, 1992, 106 Stat. 2302.)

SHORT TITLE

Section 1 of Pub. L. 102-477 provided that: "This Act [enacting this chapter] may be cited as the 'Indian Employment, Training and Related Services Demonstration Act of 1992'."

§ 3402. Definitions

For the purposes of this chapter, the following definitions apply:

(1) Indian tribe

The terms "Indian tribe" and "tribe" shall have the meaning given the term "Indian tribe" in section 450b(e) of this title.

(2) Indian

The term "Indian" shall have the meaning given such term in section 450b(d) of this title.

(3) Secretary

Except where otherwise provided, the term "Secretary" means the Secretary of the Interior.

(Pub. L. 102-477, §3, Oct. 23, 1992, 106 Stat. 2302.)

§ 3403. Integration of services authorized

The Secretary of the Interior, in cooperation with the appropriate Secretary of Labor, Secretary of Health and Human Services, or Secretary of Education, shall, upon the receipt of a plan acceptable to the Secretary of the Interior submitted by an Indian tribal government, authorize the tribal government to coordinate, in accordance with such plan, its federally funded employment, training, and related services programs in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

(Pub. L. 102-477, §4, Oct. 23, 1992, 106 Stat. 2302.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3404, 3405 of this title.

§ 3404. Programs affected

The programs that may be integrated in a demonstration project under any such plan referred to in section 3403 of this title shall include any program under which an Indian tribe is eligible for receipt of funds under a statutory or administrative formula for the purposes of job training, tribal work experience, employment opportunities, or skill development, or any program designed for the enhancement of job opportunities or employment training.

(Pub. L. 102-477, §5, Oct. 23, 1992, 106 Stat. 2302.)

§ 3405. Plan requirements

For a plan to be acceptable pursuant to section 3403 of this title, it shall—

- (1) identify the programs to be integrated;
- (2) be consistent with the purposes of this chapter authorizing the services to be integrated in a demonstration project;
- (3) describe a comprehensive strategy which identifies the full range of potential employment opportunities on and near the tribal government's service area, and the education, training and related services to be provided to assist Indian workers to access those employment opportunities;
- (4) describe the way in which services are to be integrated and delivered and the results expected from the plan;
- (5) identify the projected expenditures under the plan in a single budget;
- (6) identify the agency or agencies of the tribal government to be involved in the delivery of the services integrated under the plan;
- (7) identify any statutory provisions, regulations, policies, or procedures that the tribal government believes need to be waived in order to implement its plan; and